

PTO/SB/33 (07-05)  
Approved for use through xx/xx/200x. OMB 0651-00xx  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE  
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

## PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

B-5745 952775-8

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on June 15, 2006

Signature

Typed or printed name Alma Smalling

Application Number

09/872,502

Filed

June 1, 2001

First Named Inventor

Jason John RUTHERGLEN

Art Unit

2136

Examiner

Ronald BAUM

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐

applicant/inventor.

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/96)

☐

attorney or agent of record.

Registration number \_\_\_\_\_

☒

attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 43,010

Signature

ROBERT POPA

Typed or printed name

(323) 934-2300

Telephone number

June 15, 2006

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below\*.

☒

\*Total of 2 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Rejection under 35 U.S.C §102

Claims 1-38 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,687,831 to Albaugh et al. In their latest response, Appellants had clearly and specifically pointed out to the Examiner that this is not correct because, *inter alia*, Albaugh do not disclose the claimed (i) one or more proxy objects being generated in response to commands from the first application (please see page 2, 2<sup>nd</sup> & 3<sup>rd</sup> paragraphs, page 3 last paragraph of previous Response), (ii) second application receiving proxy objects from the first application, generating a database query based on the proxy objects and the drivers and returning the database query results to the first application (please see page 3, 1<sup>st</sup> full paragraph), and (iii) first and second applications separated by a security mechanism (please see top of page 4).

In the final Action, the Examiner continues to insist that these limitations are disclosed by Albaugh by generally citing to the abstract and figures 7,8, 10-15 and associated descriptions “as broadly interpreted by the examiner.” In response to Appellants’ detailed discussion as to why this is not in fact correct, the Examiner dismisses them as not persuasive and offers that “[n]owhere in the claim language does the recitation of a requirement for an explicit claiming of the differentiation aspect concerning the use of an application not inherently associated with the use of the instantiated objects (i.e. proxies or whatever type of objects); just the broad “first application capable ... second application ...” criteria per se.” Regarding forwarding proxy objects, the Examiner retorts that “the various Albaugh et al references to the performance of objects functionality/transfer (i.e. inherently in the form of object reference requests; clearly objects transferred nonetheless), as being *broadly interpreted by the examiner*, as per the claim language, would therefore be applicable in the rejection...” With all due respect, Appellants have no idea what the Examiner is talking about.

The Examiner’s proffered “reason” literally borders on the nonsensical, and can in no way be accepted as filling in all the missing parts of the previous rejection to thereby provide a proper, fully supported 102(e) rejection. The Examiner’s mention of “the



differentiation aspect” and its “explicit claiming” simply has no relevance to the present claims not, for that matter, any connection to the Albaugh reference. The Examiner’s repeated invocation of unnamed attributes that in his view appear to be magically “inherently associated with the use of the instantiated objects,” “inherently in the form of object reference requests,” etc. etc., and his steadfast reliance upon his “broad interpretation” are also very, very shy of the minimum requirements for a proper 102(e) rejection:

“In rejecting claims for want of novelty or for obviousness, the examiner must cite the best references at his or her command. When a reference is complex or shows or describes inventions other than that claimed by Applicant, **the particular part relied on must be designated as nearly as practicable. The pertinence, if not apparent, must be clearly explained** and each rejected claim specified.” [37 C.F.R. §1.104(c)(2)]

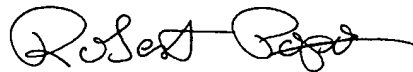
Appellants have laid out very clearly and specifically the many claim limitations missing from the disclosure of Albaugh, and the Examiner has failed to address where exactly each and every one of these limitations is explicitly taught by Albaugh. Nothing else will suffice for a proper 102 rejection. To reiterate, Appellants submit that Albaugh does not teach:

- (i) one or more proxy objects being generated in response to commands from the first application;
- (ii) a second application receiving proxy objects from the first application, generating a database query based on the proxy objects and the drivers and returning the database query results to the first application; and
- (iii) first and second applications separated by a security mechanism.

Appellants thus invite the reader to peruse the Examiner’s Actions and attempt to find where the Examiner designates, as nearly as practicable, the particular part where each of these limitations is taught by Albaugh. Appellants respectfully submit that the reader will find no such support in the Examiner’s Actions.

Therefore, in view of all of the above, Appellants respectfully submit that the Final Office Action mailed on March 15, 2006 contains multiple clear errors in the Examiner's rejections and that the Examiner's rejections omit essential elements required for a prima facie rejection. Appellants thus respectfully request that the application be allowed on the existing claims and prosecution remain closed.

Respectfully submitted,



---

Robert Popa  
Attorney for Appellants  
Reg. No. 43,010  
LADAS & PARRY  
5670 Wilshire Boulevard, Suite 2100  
Los Angeles, California 90036  
(323) 934-2300 voice  
(323) 934-0202 facsimile  
rpopa@ladas.com